

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**JOSE ACEVEDO, on behalf of J.A., a minor
Plaintiff,**

v.

Case No. 06-C-855

**MICHAEL J. ASTRUE
Commissioner of the Social Security Administration
Defendant.**

ORDER

On May 24, 2007, I reversed the Commissioner's decision denying plaintiff's application for social security benefits. Plaintiff now moves for an award of attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. The Commissioner does not oppose the motion.

The EAJA mandates an award of attorney's fees to a "prevailing party"¹ in a civil action against the United States where the government's position was not "substantially justified," no "special circumstances" make an award unjust, and the fee application is submitted to the court within thirty days of final judgment. 28 U.S.C. § 2412(d)(1). Because I reversed and remanded the Commissioner's decision under sentence four of 42 U.S.C. § 405(g), plaintiff was the "prevailing party." See Shalala v. Schaefer, 509 U.S. 292, 302 (1993). His motion is timely, his net worth does not exceed \$2,000,000, and the Commissioner does not contend that the government's position was substantially justified or that special circumstances would make an

¹Under the EAJA, a "party" must have a net worth of less than \$2,000,000 at the time the action was filed to be able to collect fees. 28 U.S.C. § 2412(d)(2)(B).

award unjust. Therefore, plaintiff is entitled to an award. Finally, I find the amount of plaintiff's request reasonable, both in terms of the rate requested and the number of hours spent.

THEREFORE, IT IS ORDERED that plaintiff's motion for an award of attorney's fees is **GRANTED**, and plaintiff's counsel, David Traver, is awarded fees in the amount of \$7371.88.

Dated at Milwaukee, Wisconsin, this 11th day of September, 2007.

/s Lynn Adelman

LYNN ADELMAN
District Judge